

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

OTIS MILLER,

CASE NO. 1:22 CV 662

Petitioner,

v.

JUDGE JAMES R. KNEPP II

WARDEN KENNETH BLACK,

**MEMORANDUM OPINION AND
ORDER**

Respondent.

This matter is before the Court on Magistrate Judge Darrell A. Clay's Report and Recommendation ("R&R") to dismiss Petitioner Otis Miller's Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2254. (Doc. 11). Specifically, Judge Clay recommends the Court find Petitioner's grounds for relief procedurally defaulted. *See id.* at 14-23.

Under the relevant statute:

Within fourteen days of being served with a copy [of a Magistrate Judge's R&R], any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.

28 U.S.C. § 636(b)(1); *see also* FED. R. CIV. P. 72(b)(2). The failure to file timely written objections to a Magistrate Judge's R&R constitutes a waiver of *de novo* review by the district court of any issues covered in the R&R. *Thomas v. Arn*, 728 F.2d 813, 814-15 (6th Cir. 1984); *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981).

The R&R was issued on August 6, 2024. Petitioner requested and received an extension of time to October 1, 2024, to file his objections. It is now November 4, 2024, and Petitioner has neither filed objections nor requested a further extension of time. Despite the lack of objections,

the Court has reviewed Judge Clay's R&R and agrees with the findings and recommended rulings therein. Therefore, the Court ADOPTS Judge Clay's R&R (Doc. 11) as the Order of this Court and DISMISSES Petitioner's Petition (Doc. 1) as set forth therein.

The Court finds an appeal from this decision could not be taken in good faith. 28 U.S.C. § 1915(a)(3). Further, because Petitioner has not made a substantial showing of a denial of a constitutional right directly related to his conviction or custody, the Court declines to issue a certificate of appealability. 28 U.S.C. § 2253(c)(2); FED. R. APP. P. 22(b); Rule 11 of Rules Governing § 2254 Cases.

IT IS SO ORDERED.

s/ James R. Knepp II
UNITED STATES DISTRICT JUDGE

Dated: November 4, 2024